

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT BERGSTROM, *et al.*,

Plaintiffs,

v.

THE UNITED STATES NAVY, *et. al.*,

Defendants.

Case No. 2:21-cv-00055-MJP

JOINT STATUS REPORT, STIPULATED
MOTION, AND ORDER FOR A
BRIEFING SCHEDULE

Noted for consideration:
October 14, 2021

COMES NOW the Plaintiffs, Robert and Thomas Bergstrom, by and through their counsel of record; and the Defendants, the United States Navy; Carlos Del Toro, Secretary of the Navy; Department of Defense; and the United States of America, by and through Nicholas W. Brown United States Attorney for the Western District of Washington, and Sarah K. Morehead, Assistant United States Attorney for said District, and hereby file this joint status report and proposed briefing schedule pursuant to the Court's order requesting it. Dkt. #31.

Defendants have filed a motion to dismiss plaintiffs' claims under the Fourteenth Amendment and the Little Tucker Act; defendants did not move to dismiss plaintiff's claim under the Administrative Procedure Act ("APA"). Dkt. #30. Defendants' motion to dismiss is pending

1 and noted for consideration on October 22, 2021. *Id.* Within 14 days after the Court rules on the
2 motion to dismiss, defendants will file their Answer and the Administrative Record pursuant to
3 Local Civil Rule 79(h) and Federal Rule of Civil Procedure 12.

4 The parties propose the following to resolve any issues that remain in the case following
5 resolution of defendants' motion to dismiss:

6 1. Plaintiffs intend to file a reply to defendants' motion to dismiss Dkt #30 noted for
7 consideration October 22, 2021.

8 2. Plaintiffs will file a motion for summary judgment, not to exceed 24 pages, within
9 sixty days of the date defendants file their Answer. Plaintiffs will note their motion for summary
10 judgment for a Friday that allows sufficient time for the time periods set forth in paragraph 2 of
11 this stipulation.

12 3. Within thirty days of the date plaintiffs file a motion for summary judgment as set
13 forth in paragraph 2, defendants will file a combined response to plaintiff's motion and a cross
14 motion for summary judgment, not to exceed 24 pages. Within thirty days of the date defendants
15 file their cross motion, plaintiffs will file a combined response to that motion and reply to his
16 motion for summary judgment, not to exceed 24 pages. Within 14 days of plaintiffs' filing,
17 defendants will file a reply in support of their motion for summary judgment, not to exceed twelve
18 pages.

1 DATED this 14th day of October, 2021.

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3 Respectfully submitted,

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5 s/ Sarah K. Morehead

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15 *Attorney for Plaintiffs*

ORDER

The parties having stipulated and agreed, it is hereby so ORDERED that the parties will comply with the above stipulated briefing schedule.

DATED this 18th day of October, 2021.



Marsha J. Pechman
United States Senior District Judge